



PUBLIC NOTICE

Federal Communications Commission
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March 5, 2013

COMPETITION DATA REQUESTED IN CENTURYLINK FORBEARANCE PETITION

WC Docket No. 12-60

In this Public Notice, we invite voluntary submissions of data to assist the Commission in evaluating the forbearance petition filed by CenturyLink.¹ On February 23, 2012, CenturyLink filed a petition pursuant to section 10 of the Communications Act of 1934, requesting the Commission forbear from enforcing “dominant carrier regulation and the *Computer Inquiry* tariffing requirement with respect to its packet-switched and optical retransmission services” regarding its enterprise broadband service offerings.² Specifically, petitioner seeks forbearance from 47 U.S.C. §§ 203, 204(a)(3); 47 C.F.R. §§ 1.54(a)(1), (e)(1), 61.31-61.59, 63.71, 63.03 and other requirements under related Commission Orders.³

On March 6, 2012, the Commission released a Public Notice inviting comment on CenturyLink’s petition.⁴ Commenters argue that CenturyLink has not provided adequate evidence to support its forbearance petition;⁵ that the Commission ought to apply a traditional market power test,⁶ such as the one

¹ Petition of CenturyLink for Forbearance Pursuant to 47 U.S.C. §160(c) from Dominant Carrier and Certain *Computer Inquiry* Requirements on Enterprise Broadband Services, WC Docket No. 12-60 (filed Feb. 23, 2012) (CenturyLink Petition).

² CenturyLink Petition at 1.

³ *Id.* at 9–10.

⁴ *Pleading Cycle Established for Comments on CenturyLink Petition for Forbearance from Dominant Carrier and Certain Computer Inquiry Requirements on Enterprise Broadband Services*, WC Docket No. 12-60, Public Notice, 27 FCC Rcd 2306 (2012). On Feb. 22, 2013, the Bureau extended by 90 days the date on which CenturyLink’s petition shall be deemed granted. Petition of CenturyLink for Forbearance Pursuant to 47 U.S.C. § 160(c) from Dominant Carrier and Certain Computer Inquiry Requirements on Enterprise Broadband Services, WC Docket 12-60, Order, DA 13-286 (rel. Feb. 22, 2013).

⁵ See, e.g., NASUCA and NJ Division of Rate Counsel Comments at 12–13; Sprint Comments at 6–10; tw telecom Comments at 6–7; but see Corning Comments at 5–6.

⁶ See Sprint Comments at 3–4; tw telecom Comments at 3–4; but see AT&T Reply at 3–6; Verizon Reply at 10–12.

applied in the Qwest Phoenix order;⁷ and that there is not sufficient competition in the current market to warrant forbearance.⁸

In this Public Notice, the Commission requests voluntary submissions of competition data.⁹ If any party submits data that contain confidential and proprietary information, it shall submit such data in accordance with the *First Protective Order*,¹⁰ and the *Second Protective Order*¹¹ issued concurrently with this Public Notice.

The Commission requests that the public voluntarily submit the requested data in response to this Public Notice on or before March 26, 2013. Responses to this data request may be filed on a rolling basis.

I. Definitions

Competitive Provider means a competitive local exchange carrier (CLEC), interexchange carrier, cable operator, wireless company, and any other entity, except for an incumbent local exchange carrier (ILEC), that is subject to the Commission's jurisdiction, as provided for by the Communications Act of 1934, as amended, and provides **Dedicated Service**.¹²

Connection is a wired line or wireless channel that provides to an **End User** a dedicated communication path between an **End User Location** (which includes a cell site) and the first **Node** on a **Provider's** network. Multiple dedicated communication paths serving one or more **End Users** at the same **Location** using the same wired line or wireless channel should be counted as a single **Connection**. For purposes of this request, wired lines and wireless channels used to provide dedicated communications paths within and between **Providers'** networks (*e.g.*, connections between **Nodes**) are not considered **Connections**.

Dedicated Service is a **Connection** that does not include "best effort" services, *e.g.*, mass market broadband services such as DSL and cable modem broadband access.

End User means a business, institutional, or government entity that purchases **Dedicated Service** for its own purposes and does not resell such service. A facilities-based mobile wireless service **Provider** is considered an **End User** when it purchases **Dedicated Service** to make **Connections** within its own network, *e.g.*, backhaul to a cell site.

⁷ *Petition of Qwest Corporation for Forbearance to 47 U.S.C. § 160(c) in the Phoenix, Arizona Metropolitan Statistical Area*, WC Docket No. 09-135, Memorandum Opinion and Order, 25 FCC Rcd 8622 (2010).

⁸ *See, e.g.*, NASUCA and NJ Division of Rate Counsel Comments at 4–5; tw telecom Comments at 9–10; *but see, e.g.*, AT&T Reply at 2; Verizon Reply at 3–4, 6–7.

⁹ In this Public Notice, we seek facts or opinions submitted in response to our general solicitation of comments from the public. No person is required to supply specific information pertaining to the commenter, other than that necessary for self-identification, as a condition of our full consideration of the comment. Thus, this Public Notice does not seek "information" as that term is used in the Paperwork Reduction Act of 1995. *See* 5 C.F.R. § 1320.3(h)(4); *see also* Paperwork Reduction Act of 1995, Pub. L. No. 104-13, 109 Stat. 163.

¹⁰ *See Petition of CenturyLink for Forbearance Pursuant to 47 U.S.C. § 160(c) from Dominant Carrier and Certain Computer Inquiry Requirements on Enterprise Broadband Services*, WC Docket No. 12-60, Protective Order, 27 FCC Rcd 2895 (2012) (*First Protective Order*).

¹¹ *Petition of CenturyLink for Forbearance Pursuant to 47 U.S.C. § 160(c) from Dominant Carrier and Certain Computer Inquiry Requirements on Enterprise Broadband Services*, WC Docket No. 12-60, Second Protective Order, DA 13-338 (rel. March 5, 2012) (*Second Protective Order*).

¹² *See* 47 U.S.C. § 151 *et seq.*

Indefeasible Right of Use (IRU) means an indefeasible right to use facilities for a certain period of time that is commensurate with the remaining useful life of the asset, generally 10-20 years. The right confers on the grantee the vestiges of ownership and typically involves a substantial sum paid up front, generally priced as a certain amount (depending on market rates) per mile or per fiber mile.

Listed Service means the services listed in section IV.

Listed County means the geographic extent of a county lying within or overlapping a CenturyLink study area.

Listed Zip Code means the geographic extent of each 5-digit Zip Code lying within or overlapping a CenturyLink study area.

Location is an end-user premise, building, or other free-standing end-user site. For the purpose of this collection, cell sites are treated as **Locations**, and not as **Nodes**.

Node is an aggregation point, a branch point, or a point of interconnection on a **Provider's** network, including a point of interconnection to other **Provider** networks. Examples include LEC central offices, remote terminal locations, splice points (including, for example, at manholes), controlled environmental vaults, cable system headends, cable modem termination system (CMTS) locations, and facility hubs.

Provider means any entity that supplies electronic communications services, including voice, data, and/or video services using its own facilities or facilities leased subject to an **IRU** agreement. **Providers** include incumbent LECs, competitive LECs, interexchange carriers, cable operators, and companies that provide fixed wireless communications services. **Providers** that own, or lease subject to an **IRU**, wired lines or wireless channels that provide a dedicated path as set forth in our definition of **Connection**, should report a **Connection** even when the **End User** (or seller of CMRS) obtains service over that **Connection** from another entity. For example, CenturyLink would report a **Connection** if it directly sells service to a bank between the bank and the first **Node** on its network over a fiber strand that it owns or leases subject to an **IRU**. CenturyLink would also report a **Connection** if, by tariff, contract, or other non-**IRU** arrangement, a CLEC provides service to the bank over a fiber strand that CenturyLink owns or leases subject to an **IRU**. Though in the second example CenturyLink is selling or otherwise supplying the path to a **Provider**, which is excluded from our definition of **End User** (except for facilities-based mobile wireless service **Providers**), CenturyLink still must report the **Connection** to the **End User**. CenturyLink reports the **Connection** in both instances because it is the ILEC that is providing the physical, dedicated communication path between a **Location** and the first **Node** on the **Provider's** network.

II. Instructions

1. Responses to questions III.A–III.E are data specifications. If you provide Responses to these questions, we will accept responses in all formats. However, we are providing templates and instructions which set forth a preferred format for your response. The templates are available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-319280A1.xlsx.
2. Please submit data specifications in accordance with these instructions, as well as the general instructions provided at the end of this Public Notice.
3. If you choose to submit responses in electronic form only, preferably CDs, please label each CD or other electronic media device submitted, and on that label, please provide your name and the content of the electronic media device (e.g., "[your company name] response to Question III.A.1"). Please contact the Competition Policy Division staff members listed in this Public Notice if you would like to submit an electronic medium other than a CD.
4. With each submission, we request that you provide an accompanying cover letter that: (a) identifies each response by question number (e.g., we are submitting a response to Question III.A in this submission); and (c) indicates whether the materials are a partial or full response to the data request.
5. Unless otherwise specified, each request is for data as of June 30, 2012.

III. Voluntary Information Request

- A. For each **Listed Zip Code**, indicate whether you provide each **Listed Service** as an ILEC, a CLEC or both.
- B. For each **Listed Zip Code**, provide by 5-digit Zip Code:
1. The total number of **Locations** to which you provide a **Connection** that you own or that you lease from another entity under an **IRU** agreement as of June 30, 2012. Provide the total number of **Connections** at these **Locations** for the following capacities:
 - i) Up to and including a 1.544 Mbps;
 - ii) Above 1.544 Mbps and up to and including 44.736 Mbps;
 - iii) Above 44.736 Mbps and up to and including 155.52 Mbps;
 - iv) Above 155.42 Mbps;
 - v) Dark fiber.
 2. The total number of the **Locations** to which your company provided a **Connection** to a free standing cell tower or to a cell tower on a building that you own or that your lease from another entity under an **IRU** agreement as of June 30, 2012. Provide the total number of **Connections** at these **Locations** for the following capacities:
 - i) Up to and including a 1.544 Mbps;
 - ii) Above 1.544 Mbps and up to and including 44.736 Mbps;
 - iii) Above 44.736 Mbps and up to and including 155.52 Mbps;
 - iv) Above 155.42 Mbps;
 - v) Dark fiber.
- C. For each **Listed County** provide, by company, the total number of **Locations** to which your company purchases from a company *other than* CenturyLink. Provide the total number of **Connections** at these **Locations** for the following capacities:
 - i) Up to and including a 1.544 Mbps;
 - ii) Above 1.544 Mbps and up to and including 44.736 Mbps;
 - iii) Above 44.736 Mbps and up to and including 155.52 Mbps;
 - iv) Above 155.42 Mbps;
 - v) Dark fiber.
- D. For each **Listed Service** (or equivalent service) provide your nationwide total revenues, by customer class (as monitored by your company), as of June 30, 2012. Separately include a brief description of each of your equivalent services, your customer categories (*e.g.*, wholesale versus retail, or small, medium or large business enterprise customers).
- E. For each **Listed County**, provide, by **Listed Service** (or equivalent service) and customer category (as monitored by your company), your total annual revenues as of June 30, 2012. Separately include a brief description of each of your equivalent services, your customer categories (*e.g.*, wholesale versus retail, or small, medium or large business enterprise customers) and indicate whether your services are provided “on-net” or “off-net” within each Listed County.

IV. Listed Services

Legacy CenturyLink Services¹³

¹³ This list is a copy of Appendix A of CenturyLink’s Petition. CenturyLink Petition, Appendix A.

- A. Ethernet Transport - Ethernet Transport (ET) service is a high speed data transport service that provides point-to-point data transmissions in a fast packet based protocol. ET is available at 11 transport speeds: 10 Mbps, 20 Mbps, 50 Mbps, 100 Mbps, 150 Mbps, 300 Mbps, 450 Mbps, 600 Mbps, 1 Gbps, 2.5 Gbps, and 10 Gbps.
- B. Ethernet Virtual Private Line - Ethernet Virtual Private Line (EVPL) service provides the ability to order Ethernet service where a single connection can support multiple applications with varying Quality of Service (QoS). EVPL is available at transport speeds of: 10 Mbps, 100 Mbps, 1 Gbps, and 10 Gbps.
- C. Local Transport - Local Transport is a two-way voice frequency transmission path which permits the transport of calls in the originating direction and in the terminating direction, but not simultaneously. The voice frequency transmission path may be comprised of any form or configuration of plant capable of and typically used in the telecommunications industry for the transmission of voice and associated telephone signals within the frequency bandwidth of approximately 300 to 3000 Hz. Local Transport is available at bandwidths of OC3 and OC12.
- D. Synchronous Optical Channel Service - Synchronous Optical Channel Service (SOCS) provides dedicated transport utilizing Synchronous Optical Network (SONET) transmissions standards. SOCS is available at transmission rates of OC3 (155.52 Mbps), OC12 (622.08 Mbps), OC48 (2488.32 Mbps), and OC192 (9953.28 Mbps).
- E. Custom Connect - Custom Connect provides a connection to the Optical Network and a customer's designated premises. Custom Connect may be ordered as switched or special access and is available at OC3, OC12, OC48, and OC192 bandwidth capacity.
- F. Frame Relay Access Service - Frame Relay Access Service (FRAS) is a medium speed, connection-oriented packet-switched data service that allows for the interconnection of Local Area Networks (LANs) or other compatible end user customer premises equipment for the purpose of connecting to an interstate frame relay network.
- G. Asynchronous Transfer Mode Cell Relay Access Service - Asynchronous Transfer Mode Cell Relay Access Service (ATM-CRS) is a connection-oriented transport service that is based on ATM technology using fixed length, 53-byte cells. ATM-CRS provides high-speed data transport for bandwidth intensive data, voice, or video applications with the ability to interconnect multiple locations using the ATM-CRS network.
- H. Video Frame Services - Type II (270 Mbps) - 270 Mbps Video is provided via one non-compressed video signal with audio offered as an option in increments of two stereo channels. 270 Mbps Video is offered as a switched configuration or a dedicated (non-switched) configuration. The switched configuration may be a point-to-point or multi-point arrangement that terminates on ports of the Telephone Company's video switch. The dedicated arrangement is a point-to-point service for the transmission of video without accessing the Telephone Company's video switch.

Legacy Embarq Services

- I. Ethernet Virtual Private Line - Ethernet Virtual Private Line (EVPL) service provides the ability to order Ethernet service where a single connection can support multiple applications with varying Quality of Service (QoS). EVPL is available at transport speeds of: 10 Mbps, 100 Mbps, 1 Gbps, and 10 Gbps.

- J. 270 Mbps Digital Video Transport Service (DVTS) - 270 Mbps DVTS is a broadband digital video transport channel with one-way transmission capability and provides 270 Mbps high quality video. The service may include up to four 20 kHz Audio Engineering Society (AES)/European Broadcasting Union (EBU) digital audio signals.

Comments may be filed using: (1) the Commission's Electronic Comment Filing System (ECFS); (2) the Federal Government's eRulemaking Portal; or (3) by filing paper copies.¹⁴ All comments should reference **WC Docket No. 12-60**. The public should also send a copy of their comment (or cover letter, in the case of submissions of electronic media) to the Competition Policy Division, Wireline Competition Bureau, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554, to the attention of Chris Sova or e-mail at christopher.sova@fcc.gov.

Please submit any responses that contain Confidential Information in accordance with the *Second Protective Order*, which is being issued concurrently with this Public Notice.¹⁵ We also recommend that all electronic media, such as CDs, be delivered by hand or via messenger, as described in more detail below. If hand- or messenger-delivery of electronic media is not possible, please call Chris Sova at 202-418-1868 or Jennifer Prime at 202-418-2403 to ensure proper handling of your materials.

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/> or the Federal eRulemaking Portal: <http://www.regulations.gov>.
- Paper Filers: Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.
- Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
 - All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.
 - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
 - U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

¹⁴ See *Electronic Filing of Documents in Rulemaking Proceedings*, GC Docket No. 97-113, Report and Order, 13 FCC Rcd 11322 (1998).

¹⁵ See *Second Protective Order*.

This matter shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.¹⁶ Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one- or two-sentence description of the views and arguments presented generally is required.¹⁷ Other requirements pertaining to oral and written presentations are set forth in section 1.1206(b) of the Commission’s rules.¹⁸

For further information, contact Chris Sova of the Competition Policy Division, Wireline Competition Bureau at (202) 418-1868.

¹⁶ 47 C.F.R. § 1.1200 *et seq.*

¹⁷ *See* 47 C.F.R. § 1.1206(b)(2).

¹⁸ 47 C.F.R. § 1.1206(b).